

In the Application of:
Steffen SONNENBERG et al.
Serial No.: 10/565,241

REMARKS

Claims 1, 7, and 11-18 are amended and claims 6 and 19-23 are cancelled. No new matter is being presented.

Rejection of Claims under 35 U.S.C. § 103

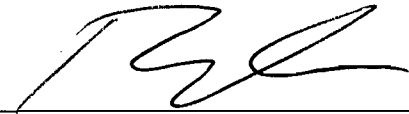
All claims stand rejected under 35 U.S.C. §103(a) as being unpatentable over Rhode et al. (hereinafter "Rhode") and/or Burrell et al. (hereinafter "Burrell") or Morelli et al. (hereinafter "Morelli").

The Examiner notes that Applicants previously did not claim relative amounts of the cis/trans ratio. Furthermore, The Examiner cites *In re Boesch* for stating that "discovery of an optimum value of result effective variable in a known process is ordinarily within the skill of the art." However, the effective obviousness based statement/rejection is rebuttable by Applicants based on the discovery of the optimum value by showing the criticality of the amounts. Where "the difference between the claimed invention and the prior art is some range or other variable within the claims...the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art ranges." *In re Woodruff*, 919 F. 2d. 1575 (Fed. Cir. 1990). Here, the cited references fail to disclose ranges and Applicants' claim a critical amount of at least 80% of the cis-esters and less than 20% of the trans-ester. Thus, Applicants respectfully request withdrawal of the rejections under 35 U.S.C. §103(a).

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Prompt and favorable examination on the merits is requested.

For the Applicants,



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